



PUBLIC NOTICE



US Army
Corps
of Engineers
Baltimore
District

In Reply to Application Number
CENAB-OP-RMS(MD DNR FISHERIES
SERVICE/PLUM &
WORTONPOINTS/DREDGING)03-64846-13

Maryland Department
of
the Environment

Comment Period: September 19, 2003 to November 7, 2003

THE PURPOSE OF THIS JOINT PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

A joint Corps of Engineers (Corps) and Maryland Department of the Environment (MDE) Public Hearing will be held on October 22, 2003 from 7:00 PM to 10:00 PM at the Kent County Courthouse, 400 High Street, Chestertown, Maryland 21620. Attendees wishing to speak at the hearing should sign up at the registration table one-half hour prior to the hearing starting time.

HEARING LOCATION: Kent County Courthouse
400 High Street
Chestertown, Maryland 21620

The Corps and MDE have received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344) and State authorization pursuant to the Tidal Wetlands Act, as described below:

APPLICANT MD DNR Fisheries Services
Shellfish Division
Tawes State Office Bldg B2
580 Taylor Avenue
Annapolis, Maryland 21401

LOCATION: In the Chesapeake Bay off Worton and Plum Points, Kent County, Maryland.

WORK: to hydraulically dredge ten million bushels of fossilized oyster shells from two sites in the Upper Chesapeake Bay. A 583 acre site is located off Worton Point and a 729 acre site is located off Plum Point. Dredge cuts will be no more than 500 feet wide with a depth no greater than 25 feet below the Bay bottom. The dredged oyster shells will be used for oyster restoration.

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect essential fish habitat (EFH). The project site lies in or adjacent to EFH as described under MSFCMA for Scophthalmus aquosus (windowpane flounder) juvenile and adult; Pomatomus saltatrix (blue fish) juvenile and adult; Paralichthys dentatus (summer flounder) juvenile and adult; and eggs, larvae, juvenile, and adult stages of Sciaenops ocellatus (red drum), Scomberomorus cavalla (king mackerel), Scomberomorus maculatus (Spanish mackerel), and Rachycentron canadum (cobia), managed species under MSFCMA. The project has the potential to adversely effect EFH or the species of concern by loss of spawning, nursery, forage and/or shelter habitat. The Baltimore District has received an EFH Assessment from the Maryland Department of Natural Resources which will be coordinated with NMFS. As the result of this coordination it could be determined that mitigation measures may be required to minimize adverse effects on EFH.

All work is to be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact the Corps project manager, Mr. Rodney Schwarm, at (410) 820-8550, or the MDE project manager, Mr. Rick Ayella, at (410) 537-3835.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

Comments are being solicited from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers and MDE to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Standards and Certification Division Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above to receive consideration. The 401 certifying agency has a statutory limit of one year to make its decision.

The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the Maryland Coastal Zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Coastal Zone Division, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland, 21230-1708, within the comment period as specified above. It should be noted that CZ Division has a statutory limit of 6 months in which to make its consistency determination.

The applicant must obtain any State or local government permits which may be required.

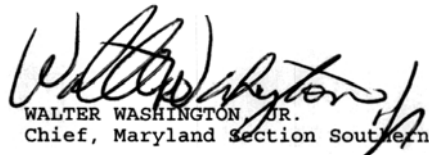
NMFS has informed the Baltimore District that the shortnose sturgeon Acipenser brevirostrum is known to be present in the project sites. The proposed work may affect the listed species or its critical habitat, therefore, pursuant to Section 7 of the Endangered Species Act as amended, the District will initiate formal consultation with NMFS regarding this matter.

The Maryland Historical Trust has informed the Baltimore District that there are submerged cultural resources located within the project areas. A Phase I identification survey will be required to determine the extent of the potential impacts on those cultural resources.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

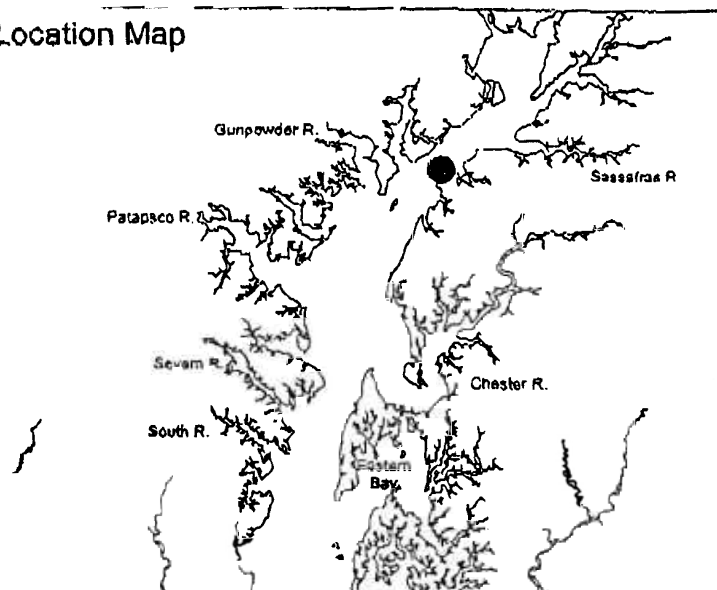
It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

FOR THE DISTRICT ENGINEER:


WALTER WASHINGTON, JR.
Chief, Maryland Section Southern

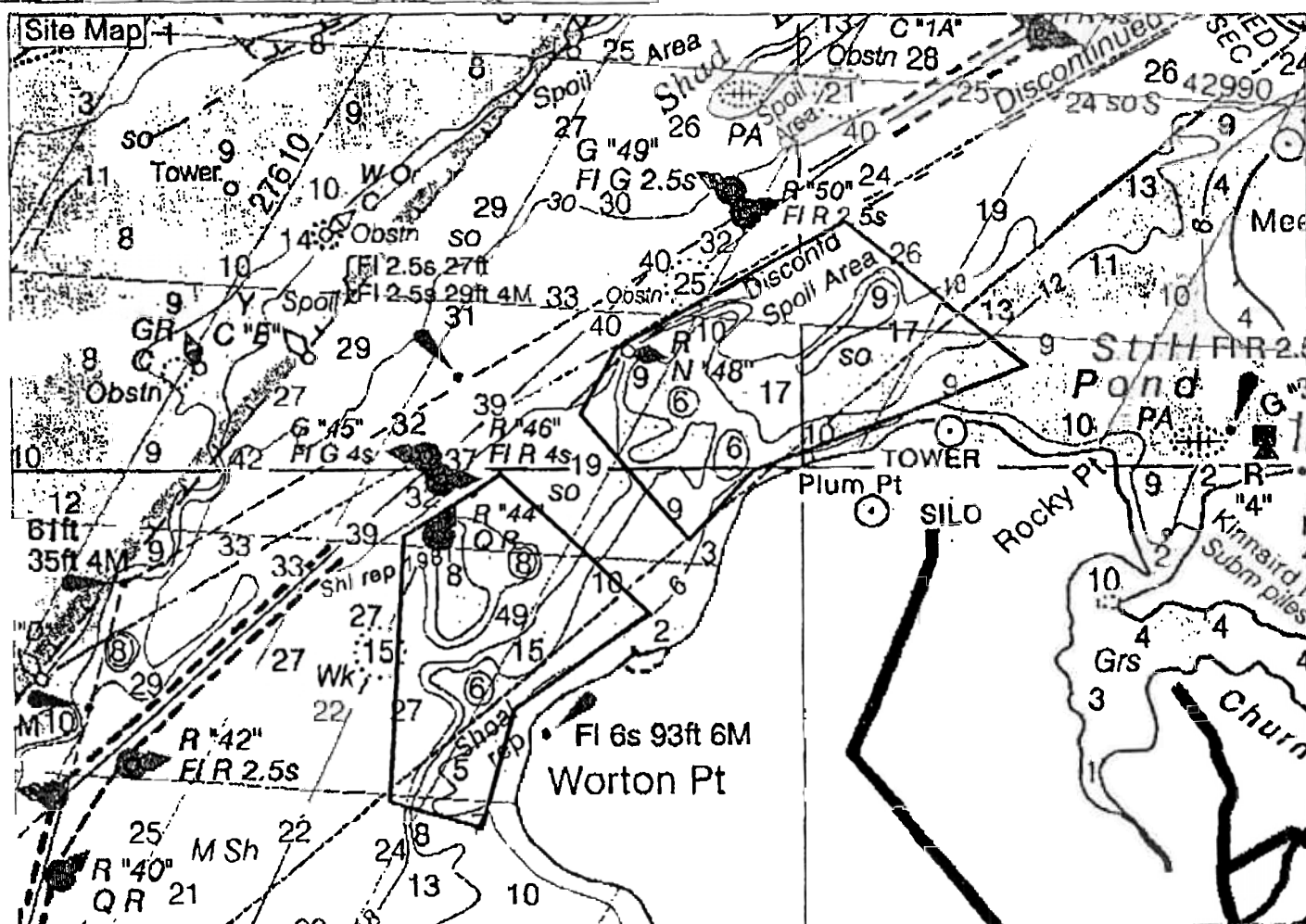
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Location Map



Application By:

Maryland Department of Natural Resources
 Fisheries Service, Shellfish Division
 Tawes State Office Building, B-2
 580 Taylor Avenue
 Annapolis, MD 21401



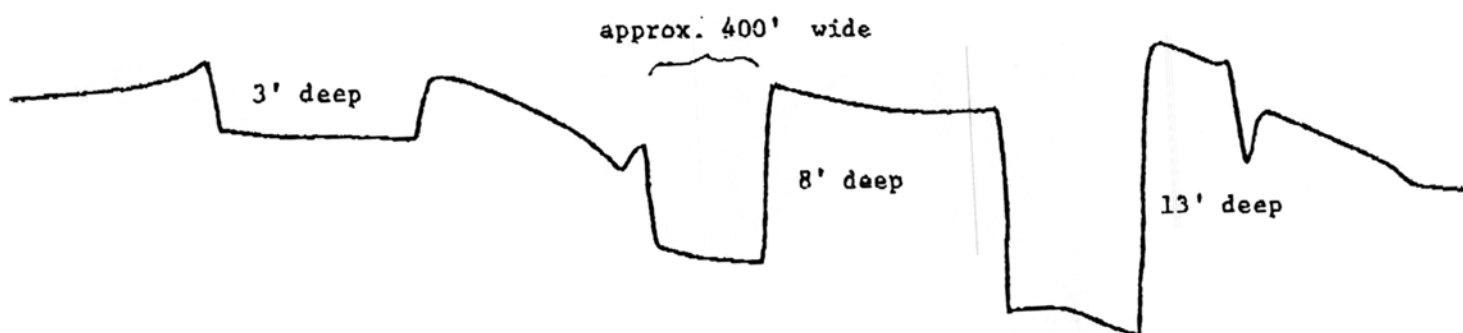
Proposed Shell Dredging: Upper Chesapeake Bay - 2004 - 2008

volume of oyster shell material within the proposed dredging areas is estimated at 20 million bushels. The amount of oyster shell material to be dredged under this project is projected to be up to 3 million bushels annually from 2004 to 2008 for a total amount of 10 million bushels. Dredging activity will be conducted from June 1 to August 15. Dredge cuts will be no wider than 500' with a depth of about 25' below the Bay bottom. DNR oyster shell material will be used for oyster restoration in Maryland and allocated accordingly: 40% sanctuary; 20% reserve; and 40% for other purposes. Maryland Historical Trust has been consulted and determined that there may be archeological or cultural concerns within the proposed dredging area. A survey will be required before work may begin. This project will have no impact to submerged aquatic vegetation (SAV) as there are no SAV beds delineated in or adjacent to the proposed permit area. The area proposed for this project also lies within the upper bay striped spawning reach.

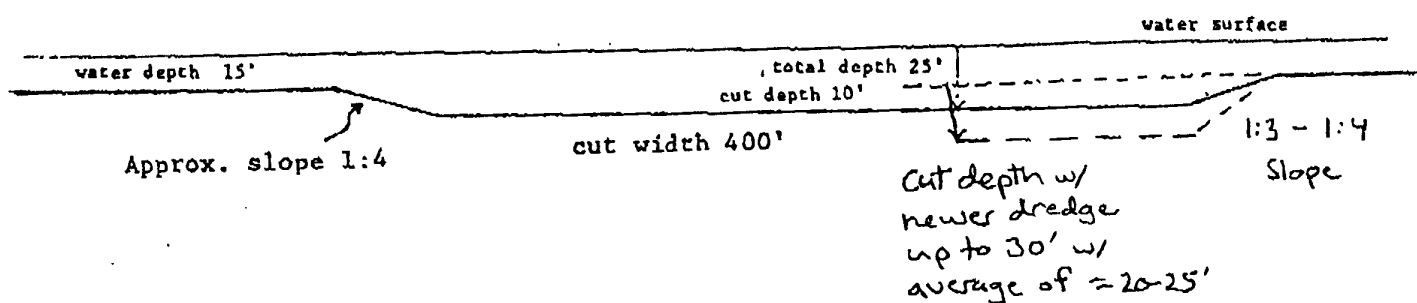
Sheet 2 of 3

 BOTTOM PROFILES BASED ON EXISTING CUTS

- 1) Tracing from Bottom Topography Survey 1987: not to scale
Area A, Lane 16



- 2) Diagrammatic view of average dredge cut: to scale



The area's in this permit application are defined as follows:

NE Shell Dredging Area (729 acres)

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
1)	39 19 46.1	76 10 28.8
2)	39 20 11.4	76 10 55.6
3)	39 20 24.9	76 10 47.1
4)	39 20 50.4	76 09 49.1
5)	39 20 20.7	76 09 04.3
6)	39 20 00.3	76 10 12.7

SW Shell Dredging Area (583 acres)

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
1)	39 18 46.7	76 11 21.8
2)	39 18 52.0	76 11 44.4
3)	39 19 46.6	76 11 39.7
4)	39 19 58.7	76 11 16.3
5)	39 19 30.5	76 10 39.3
6)	39 19 11.4	76 11 13.2